

**PLANNING BOARD MEETING MINUTES  
TUESDAY, NOVEMBER 21, 2006**

**MEMBERS PRESENT:** Jay Cruz, Chair  
John DiPasquale  
Paul Fontaine, Jr.  
Mike Hurley  
Nancy Maynard

**MEMBERS ABSENT:** Paula Caron, Vice-Chair  
Yvette Cooks (associate member)

**PLANNING OFFICE:** David Streb, Mike O'Hara

**Call to Order**

Meeting called to order at 6:00 p.m. in the Veteran's Room, First Floor, City Hall.

**Communications**

Letter from David Streb to Ed McSweeney re: need for drainage design review fee, Oakland St. PUD.  
Verbal notification that McSweeney has asked to postpone hearing on this project to December meeting.  
Letter from David Streb to Gary Lorden re: need for design review fees for proposed Basin C modification, Victoria Lane.

Form received from Registry of Deeds for each Board member to sign, for Registry's' records.

Draft schedule for 2007 passed out for review. Board OK with that meeting schedule.

Copy of agenda for legislative affairs committee at which they are discussing uses of subdivision bond use. Dave Streb advised that City Solicitor had stated this was not possible to do.

Letter to Mark Biller, Lifestyle Builders re: need to request a special permit modification of his over-55 project if the water distribution system differs from what was presented to Planning Board when they approved project.

Letter from adjoining towns about proposed zoning changes.

Report for Public Works committee with item recommending opening of Fifth Mass Turnpike.

**Meeting Minutes**

Motion made & seconded to approve minutes of October 17<sup>th</sup> meeting as corrected by Ms. Caron.  
Vote unanimous.

**ANR plans**

The Board reviewed and endorsed the following "ANR" plans:

Bridle Cross Realty Trust, Rollstone Road

"Phase lines" for condos on east side of Rollstone Road.

Shack, 424-438 Main Street, Boulder Drive

Split parcel along common wall. Also has frontage on Boulder Drive to rear.

Edgewater Development, Farmer Ave. extension

Plan splits two conforming lots on west side of recently extended Farmer Ave.

**MINOR SITE PLAN REVIEW**

280 Lunenburg St., Dry Cleaners

*Voting members present: Cruz, DiPasquale, Fontaine, Hurley, Maynard*

*Action:* Hearing continued until December 19<sup>th</sup>.

No one present for this item. Mike O'Hara said he called Bradford Engineering to determine the status of the plan, and they said the applicant never followed through.

Action: Board voted to continue the hearing until December 19<sup>th</sup>. Also send a letter to applicant advising them of the status.

## **PUBLIC HEARINGS**

### **Special Permit renewal - Bay Communications, wireless communications tower, 609 Wanoosnoc Rd.**

*Voting members present: Cruz, DiPasquale, Fontaine, Hurley, Maynard*

Action: Approved 5-0 to grant 3 year extension.

Atty. Pare, representing applicant, and Cary Diehl, Bay Communications, present.

Mr. Cruz mentioned he spoke to the City Solicitor and she said the road and bridge were private property, and we shouldn't be requiring the applicant to do work on private property. If we put conditions on the approval we'll be assuming liability. He also mentioned that he got a call from the Chief of the Fire Department expressing concerns about the condition of the bridge.

Mr. Fontaine stated that therefore it's not in our purview to make any conditions about the bridge.

Several Board members wanted opinion in writing from the City Solicitor. Ms. Maynard was not comfortable with voting on the matter without something in writing.

Mr. Fontaine wants to also know what potential liability the city would assume if they approve this permit e.g., the bridge collapses and someone is killed. He also wishes to have comments from the Fire Chief in writing.

Atty. Pare handed out a letter dated 10-5-06 from Eamon Kernan, P.E. of Aerial Spectrum stating the bridge is structurally sound.

Steven Holt, 152 Olin Avenue – it's not their intent to delay this permit or block this tower. Also, how does Joe Pandiscio factor into this? Atty. Pare: He is the owner and landlord. They derive their rights from his rights.

Keith Dooling, 566 Wanoosnoc Rd. Was the report signed by an engineer? A: Yes. Q: What was the date of the inspection? A: September 29, 2006.

Steve Olin: One other concern. Some of the neighbors are concerned about the radiation from the tower. Can we request a report?

Mr. Fontaine: We can't deny a permit based on an environmental condition that we don't know exists.

Atty. Pare: They (Bay) don't emit signals. They just own the tower. And, he acknowledges that there are other by-laws in other towns that require reporting of radiation levels, but he doesn't know if they're enforceable. The FCC is the jurisdiction for radiation issues.

Cary Diehl, Bay Communications, carriers maintain their equipment and often bring trucks. Sprint made change to their cabinets recently.

Mr. DiPasquale: Is Bay concerned about condition of the culvert?

Cary Diehl: Yes.

Mr. DiPasquale: Bridge in same condition as when they started?

Cary Diehl: According to their engineers, yes.

Mr. DiPasquale: Working there 'til ten o'clock at night?

Atty. Pare: They left plate in place. They didn't cause damage to culvert.

Mr. DiPasquale expressed concern that so little regard is being shown to Keith Dooling's plight, given the deteriorated condition of the bridge and driveway.

Action: Matter tabled until City Solicitor arrives.

**Bay Communication hearing reopened at 7:16 p.m.**

Atty. Phillips said that her 2004 memo still applies -- that the evidence presented was not adequate to prove Wanoosnoc Road is a public way beyond Glen Avenue. Board can't require improvements by a third party doing work on a private way under the city's direction.

Ms. Maynard asked about liability in the event the bridge collapses. Ms. Phillips said that the City can't be held liable if the culvert collapses. It's a private way.

David Streb asked if the Board should approve the project conditioned on applicant's having right to use the road? Ms. Phillips indicated no, not necessary. Any approval is presumed to include access.

The Board discussed the matter and wants a letter from the City Solicitor conforming what she has stated, and from the Fire Chief stating his concerns.

Steve Holt: would like chance to review City Solicitor's letter and asked Board to delay decision.

Mr. Cruz: not willing to do that.

Motion made & seconded to close hearing. Vote 5-0 to close hearing.

Discussion: Ms. Maynard & several others -- access was the only remaining issue.

Mr. DiPasquale & Mr. Fontaine -- it appears that the Board's hands are tied.

Motion made & seconded to extend the special permit for a three year period. Vote unanimous.

The Board voted 5-0 to grant 3 year extension.

**Modification of Victoria Lane, detention basin "C"**

*Voting members present: Cruz, DiPasquale, Fontaine, Hurley, Maynard*

*Action:* Hearing continued for 90 days, to the nearest Planning Board meeting.

Written request by Lorden's attorney to open the hearing and postpone it for approximately 90 days.

Public Hearing opened

Mary Ann Benitez, 20 Victoria Lane. She has no idea what's going on. Noticed Detention Pond C has overflowed.

Mr. Fontaine - at what point can you cite the developer for not plowing snow or picking up trash? If it's a condition of the approval, at what point can we cite the developer? David Streb promised to look into the matter.

Board voted to continue the matter for approximately 90 days, to the nearest Planning Board meeting.

**Newport Mills – Special Permit decision clarification**

Brian DeVellis, Bribern Development – two issues in the conditions of approval:

\$100,000 or in kind work is how he remembered it. Board clarified the decision by adding "subject to approval by the Conservation Commission" to the trail requirement.

**Other Business**

David Streb explained how the Planning Office approved a modification to Seney's Litchfield Street Condominiums by approving a trench in the public way instead of a drainage swale on site.

The Board voted to continue the hearing for the two pending infill lot Special Permits to the December meeting, pending an outcome of the proposed infill lot amendment currently before the City Council.

Mr. Hurley: DPW did work at Rindge and Mechanic, and whatever they did, didn't work. Contact DPW and advise them.

Also, Board asked that new restaurant at corner First St. & Water St. be reminded to stripe parking lot, per site plan approval condition.

Meeting adjourned: 7:59 p.m.

*Next meeting: December 19, 2006*

Approved: 12-19-06